

## § 35.100

## 40 CFR Ch. I (7–1–19 Edition)

SOURCE: 66 FR 1734, Jan. 9, 2001, unless otherwise noted.

### GENERAL

#### § 35.100 Purpose of the subpart.

This subpart establishes administrative requirements for all grants awarded to State, interstate, and local agencies and other entities for the environmental programs listed in § 35.101. These provisions supplement the EPA general assistance regulations in 2 CFR parts 200 and 1500. Sections 35.100–35.118 contain administrative requirements that apply to all environmental program grants included in this subpart. Sections 35.130–35.418 contain requirements that apply to specified environmental program grants. Many of these environmental programs also have programmatic and technical requirements that are published elsewhere in the Code of Federal Regulations.

[66 FR 1734, Jan. 9, 2001, as amended at 79 FR 76054, Dec. 19, 2014]

#### § 35.101 Environmental programs covered by the subpart.

(a) The requirements in this subpart apply to all grants awarded for the following programs:

(1) Performance partnership grants (Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. Law 104–134, 110 Stat. 1321, 1321–299 (1996) and Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, Pub. Law 105–65, 111 Stat. 1344, 1373 (1997)).

(2) Air pollution control (section 105 of the Clean Air Act).

(3) Water pollution control (section 106 of the Clean Water Act).

(4) Public water system supervision (section 1443(a) of the Safe Drinking Water Act).

(5) Underground water source protection (section 1443(b) of the Safe Drinking Water Act).

(6) Hazardous waste management (section 3011(a) of the Solid Waste Disposal Act).

(7) Pesticide cooperative enforcement (section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act).

(8) Pesticide applicator certification and training (section 23(a)(2) of the

Federal Insecticide, Fungicide, and Rodenticide Act).

(9) Pesticide program implementation (section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act).

(10) Nonpoint source management (sections 205(j)(5) and 319(h) of the Clean Water Act).

(11) Lead-based paint program (section 404(g) of the Toxic Substances Control Act).

(12) State indoor radon grants (section 306 of the Toxic Substances Control Act).

(13) Toxic substances compliance monitoring (section 28 of the Toxic Substances Control Act).

(14) State underground storage tanks (section 2007(f)(2) of the Solid Waste Disposal Act).

(15) Pollution prevention state grants (section 6605 of the Pollution Prevention Act of 1990).

(16) Water quality cooperative agreements (section 104(b)(3) of the Clean Water Act).

(17) Wetlands development grants program (section 104(b)(3) of the Clean Water Act).

(18) State administration of construction grant, permit, and planning programs (section 205(g) of the Clean Water Act).

(19) Water quality management planning (section 205(j)(2) of the Clean Water Act).

(20) State Response Program Grants (section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)).

(b) Unless otherwise prohibited by statute or regulation, the requirements in § 35.100 through § 35.118 of this subpart also apply to grants under environmental programs established after this subpart becomes effective if specified in Agency guidance for such programs.

(c) In the event a grant is awarded from EPA headquarters for one of the programs listed in paragraph (a) of this section, this subpart shall apply and the term “Regional Administrator” shall mean “Assistant Administrator”.

[66 FR 1734, Jan. 9, 2001, as amended at 74 FR 28444, June 16, 2009]

**§ 35.102 Definitions of terms.**

Terms are defined as follows when they are used in this subpart.

*Allotment.* EPA's calculation of the funds that may be available to an eligible recipient for an environmental program grant. An allotment is not an entitlement.

*Consolidated grant.* A single grant made to a recipient consolidating funds from more than one environmental grant program. After the award is made, recipients must account for grant funds in accordance with the funds' original environmental program sources. Consolidated grants are not Performance Partnership Grants.

*Environmental program.* A program for which EPA awards grants under the authorities listed in § 35.101. The grants are subject to the requirements of this subpart.

*Funding period.* The period of time specified in the grant agreement during which the recipient may expend or obligate funds for the purposes set forth in the agreement.

*National program guidance.* Guidance issued by EPA's National Program Managers for establishing and maintaining effective environmental programs. This guidance establishes national goals, objectives, and priorities as well as the core performance measures and other information to be used in monitoring progress. The guidance may also set out specific environmental strategies, criteria for evaluating programs, and other elements of program implementation.

*Outcome.* The environmental result, effect, or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes must be quantitative, and they may not necessarily be achievable during a grant funding period. See "output."

*Output.* An environmental activity or effort and associated work products related to an environmental goal or objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during a grant funding period. See "outcome."

*Performance Partnership Agreement.* A negotiated agreement signed by the EPA Regional Administrator and an appropriate official of a State agency and designated as a Performance Partnership Agreement. Such agreements typically set out jointly developed goals, objectives, and priorities; the strategies to be used in meeting them; the roles and responsibilities of the State and EPA; and the measures to be used in assessing progress. A Performance Partnership Agreement may be used as all or part of a work plan for a grant if it meets the requirements for a work plan set out in § 35.107.

*Performance Partnership Grant.* A single grant combining funds from more than one environmental program. A Performance Partnership Grant may provide for administrative savings or programmatic flexibility to direct grant resources where they are most needed to address public health and environmental priorities (see also § 35.130). Each Performance Partnership Grant has a single, integrated budget and recipients do not need to account for grant funds in accordance with the funds' original environmental program sources.

*Planning target.* The amount of funds that the Regional Administrator suggests a grant applicant consider in developing its application, including the work plan, for an environmental program.

*Regional supplemental guidance.* Guidance to environmental program applicants prepared by the Regional Administrator, based on the national program guidance and specific regional and applicant circumstances, for use in preparing a grant application.

*Work plan commitments.* The outputs and outcomes associated with each work plan component, as established in the grant agreement.

*Work plan component.* A negotiated set or group of work plan commitments established in the grant agreement. A work plan may have one or more work plan components.

PREPARING AN APPLICATION

**§ 35.104 Components of a complete application.**

A complete application for an environmental program must:

- (a) Meet the requirements in 2 CFR part 200, subpart C.
- (b) Include a proposed work plan (§ 35.107); and
- (c) Specify the environmental program and the amount of funds requested.

[66 FR 1734, Jan. 9, 2001, as amended at 79 FR 76054, Dec. 19, 2014]

**§ 35.105 Time frame for submitting an application.**

An applicant should submit a complete application to EPA at least 60 days before the beginning of the proposed funding period.

**§ 35.107 Work plans.**

(a) *Bases for negotiating work plans.* The work plan is negotiated between the applicant and the Regional Administrator and reflects consideration of national, regional, and State environmental and programmatic needs and priorities.

(1) *Negotiation considerations.* In negotiating the work plan, the Regional Administrator and applicant will consider such factors as national program guidance; any regional supplemental guidance; goals, objectives, and priorities proposed by the applicant; other jointly identified needs or priorities; and the planning target.

(2) *National program guidance.* If an applicant proposes a work plan that differs significantly from the goals and objectives, priorities, or core performance measures in the national program guidance associated with the proposed activities, the Regional Administrator must consult with the appropriate National Program Manager before agreeing to the work plan.

(3) *Use of existing guidance.* An applicant should base the grant application on the national program guidance in place at the time the application is being prepared.

(b) *Work plan requirements.* (1) The work plan is the basis for the management and evaluation of performance under the grant agreement.

(2) An approvable work plan must specify:

- (i) The work plan components to be funded under the grant;
- (ii) The estimated work years and the estimated funding amounts for each work plan component;
- (iii) The work plan commitments for each work plan component and a time frame for their accomplishment;
- (iv) A performance evaluation process and reporting schedule in accordance with § 35.115 of this subpart; and
- (v) The roles and responsibilities of the recipient and EPA in carrying out the work plan commitments.

(3) The work plan must be consistent with applicable federal statutes; regulations; circulars; executive orders; and EPA delegations, approvals, or authorizations.

(c) *Performance Partnership Agreement as work plan.* An applicant may use a Performance Partnership Agreement or a portion of a Performance Partnership Agreement as the work plan for an environmental program grant if the portions of the Performance Partnership Agreement that serve as all or part of the grant work plan:

- (1) Are clearly identified and distinguished from other portions of the Performance Partnership Agreement; and
- (2) Meet the requirements in § 35.107(b).

**§ 35.108 Funding period.**

The Regional Administrator and applicant may negotiate the length of the funding period for environmental program grants, subject to limitations in appropriations acts.

**§ 35.109 Consolidated grants.**

(a) Any applicant eligible to receive funds from more than one environmental program may submit an application for a consolidated grant. For consolidated grants, an applicant prepares a single budget and work plan covering all of the environmental programs included in the application. The consolidated budget must identify each environmental program to be included, the amount of each program's funds, and the extent to which each program's funds support each work plan component. Recipients of consolidated grants